

**Ch. 3            57TH LEGISLATURE 3RD CALLED SESSION**

ing institutions, or to protect the rights of missing owners or the State if there are no owners, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the House, January 9, 1962: Yeas 88, Nays 55; House concurred in Senate amendments, January 22, 1962, by a non-record vote; passed subject to provisions of Section 49a, Article III, of the Constitution of the State of Texas; passed the Senate, as amended, January 18, 1962, by a viva-voce vote; passed subject to provisions of Section 49a, Article III, of the Constitution of the State of Texas.

Approved Jan. 29, 1962.

Effective 90 days after Feb. 1, 1962, date of adjournment.

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**TEXAS WATER COMMISSION—DUTIES,  
POWERS AND FUNCTIONS**

**CHAPTER 4**

**H. B. No. 12**

**An Act amending paragraphs (1) through (11), both inclusive, and paragraphs (15) and (16) of Section 1 of Chapter 357, Acts of the Fifty-third Legislature, Regular Session, 1953; changing the name of the Board of Water Engineers to the Texas Water Commission and prescribing certain duties, powers and functions thereof; providing for the appointment of a Chief Engineer and prescribing his duties, powers and functions; enacting other provisions in regard to the administration of the water resources of the State; providing a saving clause; and declaring an emergency.**

*Be it enacted by the Legislature of the State of Texas:*

Section 1. That paragraphs (1) through (11), both inclusive, and paragraphs (15) and (16) of Section 1 of Chapter 357, page 874 et seq., Acts of the Regular Session, Fifty-third Legislature of Texas, 1953 (Article 7477 of Chapter 1 of Title 128 of the Revised Civil Statutes of Texas, 1925, as amended), be and the same are hereby amended<sup>4</sup> so as to hereafter read as follows:

“(1) The name of the Board of Water Engineers, created and constituted by the Acts of the Thirty-third Legislature, Chapter 171, General Laws, approved April 9, 1913, is hereby changed to the Texas Water Commission, hereinafter sometimes called the ‘Commission,’ and the members constituting the Board of Water Engineers shall continue in office for the respective terms for which they were appointed, and until their successors are appointed and have qualified. Except as otherwise herein provided, all provisions of existing statutes referring to the Board of Water Engineers shall hereafter have reference to the Texas Water Commission. Said Commission shall be composed of three (3) members, one of whom shall be appointed from each of the respective water divisions described in Article 7475 of the Revised Civil Statutes of Texas, 1925.

4. Vernon's Ann.Civ.St. art. 7477.

"(2) The members of said Commission shall be appointed by the Governor, by and with the advice and consent of the Senate, and each shall hold office for a term of six (6) years, and until his successor is appointed and has qualified. Provided, that the person appointed to the term beginning in August, 1963, shall serve for a period ending February 1, 1969; the person appointed to the term beginning in August, 1965, shall serve for a period ending February 1, 1971, and the person appointed to the term beginning in August, 1967, shall serve for a period ending February 1, 1973. No person shall be appointed a member of the Commission who has not such technical knowledge and such practical experience and skill as shall fit him for the duties of the office. Each shall be a citizen of this State and a bona fide resident of the water division from which he is appointed. Each member of the Commission shall qualify by taking the official oath of office as prescribed by law, and by executing an official bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act. Members of the Commission shall serve on a full-time basis.

"(3) On or before February 1st of 1962 and on or before February 1st of each odd-numbered year thereafter, the Governor shall designate one member of said Commission who shall serve as Chairman for a two-year term ending January 31st of the following odd-numbered year and until his successor is appointed. Vacancies in the office of Chairman shall be filled by the Governor for the unexpired term. The Chairman shall preside at all meetings of the Commission and shall have authority to issue notices of public hearings authorized by the Commission, to approve payrolls for the Commission, and to approve purchase requisitions and vouchers for necessary supplies, equipment and services for the Commission. Except as the Commission may otherwise direct, the Chairman shall be the Chief Administrative Officer of the Commission with authority to employ, assign and reassign duties, adjust salaries of, and discharge from employment, all employees of the Commission within the limits of appropriation bills enacted by the Legislature and to direct the general administration of the office of the Commission. The Chairman may designate another member of the Commission to act for him in his absence or inability to serve, failing which, the other two (2) members may designate an Acting Chairman.

"(4) The Commission shall employ a Chief Engineer to serve until he is removed by the Commission. He shall be a Registered Professional Engineer under the laws of the State of Texas and shall have such practical experience and such qualifications as the Commission may require. He shall execute an official bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act.

"The Chief Engineer shall be responsible to the Commission for the following in addition to any other assignments which may be made to him by the Commission:

"(a) Making investigations and studies and collecting data and information on the occurrence, quantity, quality and availability of the surface waters and ground waters within the State, including particularly the technical duties and functions set forth in Articles 7472d, 7524, 7527, 7528, and 7537a, Vernon's Annotated Texas Civil Statutes;

"(b) Developing and keeping current a comprehensive and co-ordinated plan and program for the orderly development of the water resources of the State in the accomplishment of the purposes and objectives of Article 7472d, Vernon's Annotated Texas Civil Statutes, and of the Texas Water Planning Act of 1957 (Article 7472d—1, Vernon's Annotated Texas Civil Statutes);

"(c) After consultation with and approval by the Commission, negotiating and executing agreements with other State agencies, political subdivisions and municipal corporations of the State, Federal agencies, and private persons and corporations for co-operative or joint studies and investigations of the occurrence, quantity and quality of the surface and ground waters of the State, the topographical mapping of the State, and the collection, processing and analysis of other basic data relating to the development of the water resources of the State, and the administration and performance of such agreements;

"(d) Collecting, receiving, analyzing and processing basic data concerning the water resources of the State;

"(e) Carrying on the program for topographic and geologic mapping of the State;

"(f) Reviewing, analyzing and advising with the Commission in regard to all projects submitted to the Commission for certification under Sections 12 and 18 of the Texas Water Development Board Act (Article 8280—9, Vernon's Annotated Texas Civil Statutes) and inspecting the construction of projects as provided in said Section 18;

"(g) Reviewing, analyzing and making recommendations to the Commission in regard to engineering reports by Federal agencies submitted to the Commission in accordance with Article 7472—e, Vernon's Annotated Civil Statutes of Texas;

"(h) Reviewing, analyzing and making recommendations to the Commission in regard to presentations filed under Article 7496, Vernon's Annotated Texas Civil Statutes; all applications to the Commission for permits, or amendments thereto, to appropriate public waters and/or to construct works for the impoundment, diversion and transportation of public waters; and all applications, or amendments thereto, to construct and operate waste disposal wells;

"(i) Reviewing, analyzing and making recommendations to the Commission in regard to the reclamation duties, responsibilities, and functions of the Commission pursuant to Chapter 115, Acts of the Fifty-seventh Legislature, Regular Session, 1961;

"(j) Reviewing, analyzing and making recommendations to the Commission in regard to the approval of master plans and other reports of conservation districts, river authorities and other State agencies in all cases where approval of the Commission is required by law or requested by said districts, authorities or agencies;

"(k) Providing forms for analyzing and filing with the Commission reports required by Articles 7612, 7614 and 7615, Vernon's Annotated Texas Civil Statutes;

"(l) Reviewing, analyzing and making recommendations to the Commission in regard to any proceedings for the cancellation and forfeiture, in whole or in part, of permits and certified filings for the appropriation of public waters as provided in Articles 7474, 7519, 7519a, 7519b and 7544, Vernon's Annotated Texas Civil Statutes;

"(m) Aiding, advising and assisting the Commission in proceedings for the creation of conservation and reclamation districts;

"(n) Aiding, advising and assisting the Commission in carrying out the duties, powers and functions heretofore vested in the Board of Water Engineers by Article 7799 and Article 7880—139, Vernon's Annotated Texas Civil Statutes, relating to projects of water improvement districts and water control and improvement districts;

"(o) Evaluating, preparing for publication, publishing and reproducing engineering, hydrologic and geologic data, information and reports relating to the water resources of the States;

"(p) Aiding, advising, and assisting the Commission in the designation, in accordance with the provisions of Article 7880—3c, Vernon's Annotated Texas Civil Statutes, of underground water reservoirs or subdivisions thereof;

"(q) Determining the silt load of streams and making investigations and studies of the duty of water and surveys to determine the water needs of the distinct regional divisions of the watershed areas of the State;

"(r) Aiding, advising and assisting the Commission, at its request, in regard to other engineering, hydrologic and geologic matters. It is specifically provided that the Chief Engineer or designated employees under his direction shall have the right to appear and, if the Commission directs, shall appear, and present evidence at all public hearings held by the Commission for any purpose involving matters affecting the public interest;

"(s) Performing other technical engineering, hydrologic and geologic functions in the administration of the water resources of the State.

"(5) The Commission may, by means of administrative orders which shall be recorded in its minutes, delegate to the Chief Engineer the authority to employ, assign, reassign, promote, demote and adjust salaries of and discharge from employment, all employees and personnel authorized by the appropriation bills enacted by the Legislature to be employed for the performance of the duties of the Commission which are herein made the responsibility of the Chief Engineer under the direction of the Commission, including the authority to approve payrolls for personnel under his supervision, purchase requisitions for necessary supplies, equipment and services, and vouchers in payment therefor; provided, however, that all such actions relating to personnel shall be made in conformity with the Position Classification Act of 1961, as amended, and in conformity with the limitations set forth in appropriation bills enacted by the Legislature.

"(6) The Chief Engineer shall employ an Assistant Chief Engineer, who shall have first been approved by the Commission, and who shall have the same qualifications as are required of the Chief Engineer in Subsection (4) herein. In the absence of the Chief Engineer, or in the case of his inability to act, the Assistant Chief Engineer shall perform the duties devolving upon the Chief Engineer. At other times, he shall perform such duties and have such functions and authority as may be delegated to him by the Chief Engineer. He shall make a bond in the same amount and with the same conditions as is required of the Chief Engineer.

"(7) The Commission shall employ a Secretary at a salary to be fixed by the Legislature in appropriation bills passed by it, and who shall execute a bond in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act. The Secretary shall keep full and accurate minutes of all meetings of the Commission and complete records of all its proceedings and transactions and of every ruling, order and decision made by it.

"(8) The Commission shall hold regular meetings on dates specified by order of the Commission entered upon its minutes. Special meetings may be held at such times and places within the State as said Commission may deem necessary and proper in the performance of its duties. Two (2) members of said Commission shall constitute a quorum for the transaction of business at any regular or special meeting. A quorum shall be present at all times during any hearing conducted under the provisions of this Chapter, and the Chairman or Acting Chairman shall preside at all such hearings.

"(9) The Commission and the Chief Engineer shall jointly make biennial reports in writing to the Governor as provided in Article 7526, Re-

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vised Civil Statutes of Texas, 1925, in which shall be included statements of their activities, the data and information collected, and such suggestions as to the amendment of existing laws and the enactment of new laws as they may deem desirable. All data collected by the Chief Engineer and the Commission shall be the property of the State of Texas.

"(10) The members of the Commission and its employees shall receive such compensation as may be prescribed by the Legislature in appropriation bills enacted by it and shall be entitled to receive from the State their necessary traveling expenses while traveling on official business, upon an itemized statement, sworn to by the parties who have incurred the expense, and approved by the Chairman of the Commission or the Chief Engineer, as the case may be.

"(11) The Attorney General shall be the legal advisor of the Commission and shall represent the Commission in litigation to which they may be a party; provided, that in addition, the Chairman of the Commission, subject to the written consent of the Attorney General of this State, may employ other legal counsel regularly, or may engage their services temporarily. Such legal counsel shall advise the members of the Commission and the Chief Engineer in regard to official business. Suits to enforce any provision of this Chapter may be prosecuted in the courts of the State by the Attorney General."

"(15) The Commission in making investigations, surveys and studies, and in performing other duties prescribed by this Chapter, may cooperate with agencies of the United States, with other agencies of this State or of any other State, with political subdivisions and municipal corporations of the State and with persons and corporations.

"(16) Upon the application of any person and upon payment of the fees prescribed therefor in the Rules and Regulations of the Commission, the Commission shall furnish certified copies of any proceedings or any other official act of record, or of any paper, map, or document filed in the office of the Commission, in connection with the appropriation of water, determination of water rights, or administration of water rights. Such certified copies under the hand of the Chairman or the Secretary of the Commission as to records in the custody of the Commission, and the seal of the Commission, shall be admissible as evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be."

Sec. 2. If any provision of this Act, or the application thereof to any person or circumstance, shall be held invalid or unconstitutional, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 3. The fact that there is an urgent need to better delineate the technical engineering, hydrologic and geologic authority and duties vested in the Board of Water Engineers, to authorize the performance of such technical engineering, hydrologic and geologic authority and duties by the Chief Engineer as the members of the Board may direct, and to indicate the scope of the activities of the Board of Water Engineers by changing its name to the Texas Water Commission, and the great public importance of the subject matter of this Act, create an emergency and an imperative necessity that the Constitutional Rule requiring bills to be read on three several days be and the same is hereby suspended, and that this Act shall take effect and be in force from and after the passage thereof, and it is so enacted.

Passed the House, January 16, 1962: Yeas 141, Nays 2; House concurred in Senate amendments, January 19, 1962: Yeas 130, Nays 1; passed the Senate, as amended, January 18, 1962: Yeas 27, Nays 3.  
Approved Jan. 30, 1962.  
Effective Jan. 30, 1962.